

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RAILCAR MANAGEMENT, LLC,

Plaintiff,

v.

CEDAR AI, INC.; MARIO PONTICELLO;
DARIL VILHENA; and YI CHEN,

Defendants,

v.

WABTEC CORPORATION,

Third-Party Defendant.

C21-0437 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) The motion brought by defendants Cedar AI, Inc., Mario Ponticello, Daril Vilhena, and Yi Chen, docket no. 168, to compel plaintiff Railcar Management, LLC to use different or additional search terms¹ for purposes of identifying electronically stored

¹ In a letter dated November 30, 2022, plaintiff's counsel Megan Stride listed 59 search strings. *See* Ex. 4 to Kaiser Decl. (docket no. 169-4). The Court will refer to these search strings as "RMI's Search String No. *n*," where *n* is the number reflected on Appendix A to Ms. Stride's letter. Defendants do not propose any change to 27 of these search strings, namely RMI's Search Strings Nos. 1, 2, 4, 11–16, 18–25, 27, 30, 34–36, 45–47, 50, and 59. *Compare* Exs. 1 & 2 to Kaiser Decl. (docket nos. 169-1 & 169-2) *with* App'x A (docket no. 169-4 at 6–7). In proposing alterations to other search strings, defendants have merged or inserted certain items and thereby revised the numbering system, making the situation very confusing and more complicated than necessary. Defendants' search strings, as reflected in Exhibit 1 to Ms. Kaiser's declaration, docket no. 169-1, are identified in this Minute Order using the form "Cedar's Search String No. *n*."

1 information (“ESI”) responsive to defendants’ discovery requests, is DENIED in part and
2 GRANTED in part, as follows:

3 (a) Defendants’ motion to add the terms “Falcon,” “Overwatch,” and
4 “MDR” or “Managed Detection and Response” to RMI’s Search String No. 3 is
DENIED without prejudice; defendants have not explained how these words or
phrases relate to this litigation;

5 (b) Defendants’ motion to delete “Unauthoriz* w/3” from RMI’s Search
6 Strings Nos. 6, 7, 8, and 31, and to merge RMI’s Search Strings 7 and 8 is
7 DENIED; counsel shall meet and confer and use their best efforts to attempt to
8 reach agreement concerning whether the “U” in “Unauthoriz* w/3” should be
9 capitalized or lower case and whether any of the additional terms that defendants
request (download, unusual, anomalous, reset, “RailConnect IT,” investigat*,
“look* into,” login*, log-in, FTP, “File Transfer Protocol,” snapshot, Cedar,
server, system*, security, Moran, Crews, Murray, RailConnect, vendor, customer,
railroad, pilot, credential, authori*, permission*, feed, revok*, limit, “IP,” export*)
should be included in one or more of these search strings;

10 (c) Defendants’ motion to substitute Cedar’s Search Strings Nos. 37 and
11 38 for RMI’s Search Strings No. 38 and 39 is DENIED; Cedar’s Search String
12 No. 37 is overbroad and anticipated to identify far more records than would be
13 proportional to the needs of this case; counsel shall meet and confer and use their
14 best efforts to attempt to reach agreement concerning whether any of the
additional terms that defendants request (Mario, Ponticello, Daril, Vilhena, Steve,
Murray, @cedarai, eliminat*, buy*, “joint venture,” partner*, NDA, equity,
“commercial agreement,” neutralize, worry, threat, disappear, “take out”) should
be included in RMI’s Search String No. 39;

15 (d) Defendants’ motion to insert Cedar’s Search String No. 41 is
16 DENIED; Cedar’s Search String No. 41 is overbroad and anticipated to identify
far more records than would be proportional to the needs of this case;

17 (e) Defendants’ motion to merge RMI’s Search Strings Nos. 52–58 is
18 DENIED; counsel shall meet and confer and use their best efforts to attempt to
19 reach agreement concerning whether the terms buy and/or merg* should be
20 included in RMI’s Search Strings Nos. 52 and/or 53, and whether the terms
cutover, migrat*, transfer*, end, sunset, and/or shelve should be included in RMI’s
Search Strings Nos. 55 and/or 56;

21 (f) Defendants’ motion to add Cedar’s Search Strings Nos. 54, 56–61,
22 63–64, and 67–68 is DENIED; as formulated, these search strings are overbroad
23 and anticipated to identify far more records than would be proportional to the
needs of this case; defendants may propose more focused search strings, after

1 which counsel shall meet and confer and use their best efforts to attempt to reach
 2 agreement concerning one or more search strings that would be expected to
 3 produce a reasonably-sized group of documents that are sought by the search
 strings referenced in this paragraph and not duplicative of materials identified via
 other search strings;

4 (g) Defendants' motion to add Cedar's Search Strings Nos. 55, 62, and
 5 65–66 is GRANTED as follows. Plaintiff shall run each of these searches and
 6 disclose non-privileged, responsive materials, provided that, if more than 1,500
 7 documents are identified for any given search (prior to review for privilege,
 duplication, relevance, and the like), then counsel shall meet and confer and use
 their best efforts to attempt to reach agreement concerning how the search or
 searches with more than 1,500 "hits" can be more narrowly tailored;

8 (h) Defendants' motion to make minor changes to RMI's Search
 9 Strings Nos. 5, 9, 10, 17, 28, 29, 32 is GRANTED;

10 (i) Except as otherwise indicated, defendants' motion to alter the logic
 11 of RMI's Search Strings, for example, by increasing the number of words between
 terms or substituting a disjunctive connector for a conjunctive one or vice versa, is
 DENIED; and

12 (j) Except as specifically granted, defendants' motion is DENIED. The
 13 Court DECLINES to award attorney's fees or costs to either side, and DECLINES
 14 to shift the expense of producing materials in response to defendants' requests for
 15 production from plaintiff to defendants. Counsel are hereby REMINDED of their
 obligation to work together to complete the discovery process in an efficient, cost-
 effective, and professional manner, and the Court expects a much higher level of
 cooperation than has been demonstrated to date.

16 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of
 record.

17 Dated this 4th day of April, 2023.

18 Ravi Subramanian
 19 Clerk

20 s/Laurie Cuaresma
 21 Deputy Clerk